

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Michael Bobbitt

(b) County of Residence of First Listed Plaintiff **Bucks**  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kevin Riechelison, Esquire - Law Offices of Kamensky, Cohen &  
Riechelison - 194 South Broad Street, Trenton, NJ 08608

**DEFENDANTS**

Sims Metal Management

County of Residence of First Listed Defendant **Hudson County**  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                        |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
**28 U.S.C. Section 1391(d)**

Brief description of cause:  
Slip and fall on ice

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
150,000.00

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

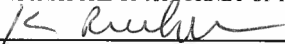
(See instructions):

JUDGE

DOCKET NUMBER

DATE  
06/22/2020

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

MICHAEL BOBBITT

Plaintiff,

Docket No. :

vs.

SIMS METAL MANAGEMENT

Defendants.

**COMPLAINT**

Plaintiff, Michael Bobbitt, residing at 16 Openwood Lane, Levittown, PA 19055, by way of Complaint against the Defendant, says:

**COUNT I**

1. Plaintiff, Michael Bobbitt, is an individual, who at all time material hereto lived at 16 Openwood Lane, Levittown, PA 19055.
2. Upon information and belief, and at all times relevant herein, the Defendant, Sims Metal Management is a corporation or other business entity with its corporate offices located at 555 Fremd avenue, Suite C300, Rye, NY 10580.
3. Sims Metal Management is a corporation or other form of business duly licensed to do business in the State of New Jersey.
4. Upon information and belief, defendant, Sims Metal Management was the owner , lessee and/or operator of a facility that was located at 1 Linden Avenue, Jersey City, New Jersey 07305.

5. Federal jurisdiction is based upon diversity of citizenship, 28 U.S.C. Section 1332(a)(1) in that the Plaintiff is a citizen of Pennsylvania and defendant is a New York Corporation.
6. Venue is based upon 28 U.S.C. Section 1391(d), as the defendant's business location where the accident involved herein occurred is located within the judicial district of this court.
7. The Plaintiff's damages exceed the minimum jurisdictional amount required (\$75,000) and also exceed the arbitration limit (\$150,000), and a jury trial is demanded.
8. At all times material hereto, Defendant owned, controlled, possessed, maintained and operated, through its agents, servants, employees, and/or franchisees, the aforementioned premises and were responsible for the removal of ice and snow and to keep the premises clear of same.
9. On or about March 5, 2019, Plaintiff was at the above premises in the course and scope of his employment with General Industrial making a delivery to Sims Metal Management, when he was caused to slip and fall as the result of an accumulation of ice and/or snow on the premises, which created a dangerous and hazardous condition.
10. Plaintiff's injuries were caused by the negligence and carelessness of Defendant through Defendant's agent(s), servant(s), employee(s), and/or people under their control in that:

(a) Defendant failed to exercise reasonable care in the maintenance and care of the aforementioned premises;

- (b) Defendant failed to take adequate steps to warn individuals such as Plaintiff of a slippery and hazardous condition that existed on the premises;
- (c) Defendant failed to properly maintain or cause to have maintained the aforementioned premises and allowed a dangerous condition to exist for an unreasonable amount of time;
- (d) Defendant failed to install or utilize proper maintenance procedures to prevent hazardous conditions and to assure a safe walking surface existed;
- (e) Defendant allowed to exist on its property a hazardous condition, which it knew, or in the exercise of due care and diligence should have known existed;
- (f) Such other acts of negligence, unknown to Plaintiff, as may be learned during the course of discovery.

11. Solely as a result of Defendant's aforesaid negligence, Plaintiff sustained injuries including, but not limited to a significant injury to his lower back, including a herniated disc at L4-5 and a herniation or bulge at L5-S1 for which he underwent a bilateral laminectomy and foramnotomy at L4-5 and L5-S1 as well as radiofrequency medical branch nerve denervations at L1-2, L2-3, L3-4, L4-5 and L5-S1. In addition, he had to undergo physical therapy and other medical treatment. Plaintiff's injuries have been and are serious, severe, and permanent. Plaintiff has also been left with scarring as a result of the surgery he was required to undergo.


12. As a result of his injuries Plaintiff had to seek and receive extensive treatment.

13. Plaintiff also sustained a significant loss of earnings for the period of time he has been out of work as a result of the accident.
14. Plaintiff has suffered and may continue to suffer great physical pain, serious and permanent injury and mental anguish; has been and may continue to be prevented from attending to Plaintiff's usual activities, duties, and occupations; has suffered and may continue to suffer a loss of earnings and earning capacity; and has incurred and may continue to incur various medical expenses in and about an effort to cure Plaintiff of the aforesaid injuries and has otherwise expended monies in an effort to remediate the injuries and/or damages caused by the negligence of Defendant.
15. By reason of his injuries, Plaintiff has been prevented from pursuing his daily activities and customary duties and enjoyment from the pleasures of life and may be prevented from doing so in the future, to his great detriment and loss.
16. The injuries and damages sustained by Plaintiff, as set forth above, were the sole proximate result of the aforesaid negligence of Defendant, and the result of an action or failure to act on the part of Defendant.
17. As a result of the negligence of the defendant, and the accident and resulting injuries, it is anticipated that plaintiff's employer's workers compensation insurance carrier, SWIF, will be asserting a lien in excess of \$50,000, for medical bills and indemnity paid to or on behalf of the plaintiff, which lien is not yet final, for which defendant is liable.

**WHEREFORE**, Michael Bobbitt, demands judgment against the Defendant for compensatory damages together with interest and costs of suit in an amount greater than \$150,000.

Kamensky ♦Cohen & Riechelson

**DATE:** 6/16/2020

**BY:**   
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